

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with John L. Doughty, (Registration# 47,533) on 09/22/2008.

The application has been amended as follows:

The status identifier for claims 11-18 has been changed from 'Withdrawn' to 'Canceled'.

End of Amendment.

Note: Regarding Amendments filed on 08/07/2008, the status identifier for the claims 7 and 9 should be 'Currently Amended' instead of 'Original'.

### ***Reasons For Allowance***

2. Claims 2, 4, 7, and 9 are allowed.

3. The following is an examiner's statement of reasons for allowance:

Regarding claims 2, and 4, prior art of record fails to teach or render obvious, alone or in combination, a method for balancing upstream traffic of a subscriber device in a broadband communication network over a plurality of upstream channels, comprising: assigning a requesting subscriber device to a requested channel if the cumulative upstream bandwidth demand of the subscriber devices currently assigned thereto is below a first predetermined CAC threshold level;

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assigning a requesting subscriber device to the requested channel if the cumulative upstream bandwidth demand of the subscriber devices currently assigned thereto is below a second predetermined CAC threshold level, and none of the upstream channels have a cumulative upstream bandwidth demand below the first predetermined threshold; and assigning the requesting subscriber device to the upstream channel having the lowest bandwidth demand if none of the plurality of upstream channels has a bandwidth demand below the first or second predetermined threshold levels in combination with all other disclosed limitations as recited in independent claims 2 and 4.

Regarding claims 7, and 9, prior art of record fails to teach or render obvious, alone or in combination, a method for performing static load balancing of one of a plurality of subscriber devices in a broadband communication network over a plurality of upstream channels, comprising: assigning a requesting subscriber device to a requested channel if the cumulative upstream bandwidth demand of the subscriber devices currently assigned thereto is below a first predetermined CAC threshold level; assigning a requesting subscriber device to the requested channel if the cumulative upstream bandwidth demand of the subscriber devices currently assigned thereto is below a second predetermined CAC threshold level, and none of the upstream channels have a cumulative upstream bandwidth demand below the first predetermined threshold; and assigning the requesting subscriber device to the upstream channel having the lowest bandwidth demand if none of the plurality of upstream channels has a bandwidth demand below the first or second predetermined threshold levels in combination with all other disclosed limitations as recited in independent claims 7 and 9.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

4. Any response to this office action should be faxed to (571) 273-8300 or mailed

To:

Commissioner for Patents,

P.O. Box 1450

Alexandria, VA 22313-1450

**Hand-delivered responses should be brought to**

Customer Service Window

Randolph Building

401 Dulany Street

Alexandria, VA 22314.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SRINIVASA R. REDDIVALAM whose telephone number

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is (571)270-3524. The examiner can normally be reached on Mon-Fri 9:30 AM - 7 PM (1st Friday OFF).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chirag Shah can be reached on 571-272-3144. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Srini Reddivalam  
09/23/2008

/Chirag G. Shah/  
Supervisory Patent Examiner, Art Unit 2619